

UNITED STATES DISTRICT COURT

District of

Delaware

UNITED STATES OF AMERICA

V.

ORDER OF DETENTION PENDING TRIAL

JOSHUA C. BEY

Case 08-97M

Defendant

In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

Part I—Findings of Fact

- ☐ (1) The defendant is charged with an offense described in 18 U.S.C. § 3142(f)(1) and has been convicted of a ☐ federal offense ☐ state or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed that is
- ☐ a crime of violence as defined in 18 U.S.C. § 3156(a)(4).
- ☐ an offense for which the maximum sentence is life imprisonment or death.
- ☐ an offense for which a maximum term of imprisonment of ten years or more is prescribed in _____.
- ☐ a felony that was committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. § 3142(f)(1)(A)-(C), or comparable state or local offenses.
- ☐ (2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state or local offense.
- ☐ (3) A period of not more than five years has elapsed since the ☐ date of conviction ☐ release of the defendant from imprisonment for the offense described in finding (1).
- ☐ (4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of (an) other person(s) and the community. I further find that the defendant has not rebutted this presumption.

Alternative Findings (A)

- ☐ (1) There is probable cause to believe that the defendant has committed an offense for which a maximum term of imprisonment of ten years or more is prescribed in _____.
- ☐ under 18 U.S.C. § 924(c).
- ☐ (2) The defendant has not rebutted the presumption established by finding 1 that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternative Findings (B)

- (1) There is a serious risk that the defendant will not appear.
- (2) There is a serious risk that the defendant will endanger the safety of another person or the community.

Part II—Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the hearing establishes by clear and convincing evidence a preponderance of the evidence: Defendant is charged with possession of a firearm by a felon. At the present time, he does not contest detention. In addition the following facts support defendant's detention:

1. Defendant uses prescription medication percocet which he purchases off the street- he also drinks while under the influence of percocet, but claims not to have an addiction to the medication.

Defendant has been unemployed since he quit his job that he held for two years over personal reasons. He has made little effort to find employment since then.

3. Defendant was convicted of felony theft in 2002; convicted of possession of a firearm by a person prohibited in 2003; convicted of conspiracy in 2005 which original charges included possession of a firearm during the commission of a felony; he was charged with possession of a firearm and conspiracy 2d in 2005; presently pending are failure to have auto insurance, possession of burglary tools, attempted burglary. Defendant had two recent FTA appears in 2007 and a record of failures on state probation. He has two prior convictions for possession of a firearm by a person prohibited, one of which involved shot being fired and the use of a machete. During that incident, the weapon was found on defendant along with MJ.

4. Defendant claims that he lives with his mother. His mother initially denied that he resided with her, but shortly before the detention hearing claimed that he does, but that she was unaware since he comes to her home during the day while she is at work. Thus his residence is questionable.

